

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION
11

12 UNITED STATES OF AMERICA,) No. CR-10-00219-SBA (DMR)
13 Plaintiff,)
14 v.) DETENTION ORDER
15)
16 FLAVIO FERNANDEZ-SANCHEZ,)
17 a/k/a "Ignacio Fernandez,")
18 Defendant.)

19 I. DETENTION ORDER

20 Defendant Flavio Fernandez-Sanchez is charged in a one-count indictment with illegally
21 re-entering the United States, in violation of 8 U.S.C. §§ 1326(a) and (b). On March 29, 2010,
22 the United States moved for Mr. Fernandez-Sanchez's detention pursuant to 18 U.S.C. §
23 3142(f)(2)(A) (because there is a serious risk that the defendant will flee), and asked for a
24 detention hearing, as permitted by 18 U.S.C. § 3142(f). Mr. Fernandez-Sanchez did not request
25 a full bail study at this time. Pretrial Services did, however, prepare a criminal record report.
26 Mr. Fernandez-Sanchez waived his right for now to proffer information at a detention hearing,
27 *see* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f) hearing, with the

1 assistance of counsel, to testify, to present witnesses, to cross-examine adverse witnesses, and to
 2 present information by proffer or otherwise), but expressly retained his right to raise any
 3 additional relevant information at a later hearing. After considering the limited information
 4 available to the Court, and the factors set forth in 18 U.S.C. § 3142(g), the Court detains Mr.
 5 Fernandez-Sanchez as a serious risk of flight and finds that no condition or combination of
 6 conditions in 18 U.S.C. § 3142(c) will reasonably assure his appearance in this case. *See* 18
 7 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985).

8 Specifically, considering the factors in 18 U.S.C. § 3142(g), the Court notes that Mr.
 9 Fernandez-Sanchez's criminal history, albeit over a decade in the past, includes two felony
 10 narcotics convictions and a revocation of probation. Furthermore, Mr. Ramirez-Cruz is subject
 11 to an immigration detainer issued by Immigration and Customs Enforcement ("ICE") based on
 12 the facts alleged in the indictment: namely, that he re-entered the United States after having been
 13 removed pursuant to an order of removal. These facts, along with the current lack of information
 14 about Mr. Fernandez-Sanchez's ties to the community, raise concern about the risk of Mr.
 15 Fernandez-Sanchez's flight and his ability to comply with any conditions of release that the
 16 Court might set. Accordingly, the Court finds that the Government has established serious risk
 17 of flight by a preponderance of the evidence.

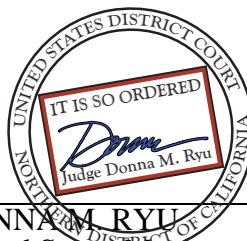
18 II. CONCLUSION

19 The Court detains Mr. Ramirez-Cruz as a serious flight risk. Because Mr. Ramirez-Cruz
 20 waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to raising
 21 relevant information at a later hearing, the Court orders that the hearing may be reopened at Mr.
 22 Fernandez-Sanchez's request at any future time.

23 Mr. Fernandez-Sanchez shall remain committed to the custody of the Attorney General.

24 IT IS SO ORDERED.

25
 26
 27 DATED: April 6, 2010



28
 DONNA M. RYU
 United States Magistrate Judge